IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A.No.4022 of 2005(O&M)

DATE OF DECISION: APRIL 16, 2007

Manohar Lal

...APPELLANT

VERSUS

Darbara Singh and another

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Ranjit Sharma, Advocate,
for the appellant.

...

This is defendant's Regular Second Appeal. In this case, the plaintiffs filed the suit for specific performance of the agreement dated 2.6.1997 and in the alternative to recover the earnest amount of Rs.3,20,000/-. The relief of specific performance was denied. However, the alternative suit to recover the earnest amount of Rs.3,20,000/-, has been decreed.

The plaintiffs' filed the aforesaid suit on the basis of a registered agreement to sell (Ex.P1) in which the defendant agreed to sell the suit property for a consideration of Rs.3,60,000/-. In the said agreement, an amount of Rs.3,20,000/- was paid as earnest money to the defendant before the Sub Registrar. To that effect, an endorsement was also made. Both the courts below after taking into consideration the evidence, declined to grant relief of specific performance as the defendant was not having clear title of the suit property. However, after recording a finding of fact that the said agreement was duly executed and the alleged amount was paid to

the defendant, the alternative suit of the plaintiffs for recovery of the amount of Rs.3,20,000/-, was decreed.

Before the trial court, the appellant took the stand that though the agreement was executed by him, but the same was got executed by putting pressure on him. The trial court while taking into account the reply given by the defendant to the notice issued by the plaintiffs before institution of the suit, in which no such plea was taken, and the other evidence led by the plaintiffs, came to the conclusion that the agreement (Ex.P1) was executed by the appellant and the earnest amount of Rs.3,20,000/- was received by him. It has also been found that the plea taken by the defendant that the agreement was got executed from him under pressure, has not been proved. On the basis of the said finding of fact, the alternative suit of the plaintiffs for recovery of Rs.3,20,000/-, was decreed.

No illegality or perversity has been pointed out by the counsel for the appellant in the said finding of fact recorded by the Courts below.

No substantial question of law has been raised or is involved in this appeal.

Dismissed.

April 16, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE